

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

UNITED STATES OF AMERICA *
*
v. * CR 109-035-03
*
WILLIE DAVIS ROYAL *

O R D E R

On October 29, 2009, Defendant Willie Davis Royal pleaded guilty to distribution of over 5 grams of cocaine base, in violation of 21 U.S.C. § 841(a)(1). He was sentenced to serve 144 months imprisonment. Royal did not appeal his sentence.

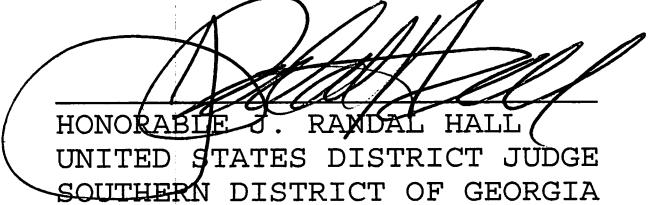
Presently, Royal has filed a motion to reduce his sentence under 18 U.S.C. § 3582(c)(2) based upon Amendment 794 to the United States Sentencing Guidelines. Amendment 794 provides new guidance for the determination of whether a defendant should be granted a mitigating role reduction under U.S.S.G. § 3B1.2.

Section 3582(c)(2) allows a court to modify an imposed term of imprisonment if a defendant's sentencing range has been subsequently lowered by the Sentencing Commission. However, this provision is only triggered by an amendment listed in U.S.S.G. § 1B1.10(d). ("In determining whether, and to what extent, a reduction in the defendant's term of

imprisonment under 18 U.S.C. § 3582(c)(2) . . . is warranted, . . . the court shall substitute only the amendments listed in subsection (d) . . . and shall leave all other guideline application decisions unaffected" (emphasis added). Amendment 794 is not a listed amendment in U.S.S.G. § 1B1.10(d).¹ Consequently, even assuming Royal's conduct would otherwise qualify him for a "minor role" reduction, Amendment 794 is not available to him retroactively in the post-conviction context.²

Upon the foregoing, Royal's motion to reduce sentence (doc. 199) is **DENIED**.

ORDER ENTERED at Augusta, Georgia, this 9th day of February, 2017.



HONORABLE J. RANDAL HALL
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF GEORGIA

¹ Indeed, the Sentencing Commission stated that Amendment 794 is intended only as a clarifying amendment. U.S.S.G. App. C, Amend. 794 (Reason for Amend.) ("This amendment provides additional guidance to sentencing courts in determining whether a mitigating role adjustment applies.").

² The cases cited by Royal (United States v. Quintero-Leyva, 823 F.3d 519 (9th Cir. 2016), and United States v. Cruickshank, 837 F.3d 1182 (11th Cir. 2016)) are inapplicable because they held that Amendment 794 may be applied retroactively to direct appeals. There is no authority that Amendment 794 may be applied in a post-conviction context.